UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,436	08/30/2006	Young-Joo Oh	B1180/20057	5030

3000 7590 12/27/2010

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

EXAMINER	
LOFFREDO, JUSTIN E	
ART UNIT	**PAPER NUMBER**
3744	

NOTIFICATION DATE	DELIVERY MODE
12/27/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@crbcp.com

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/598,436	**Applicant(s)** OH ET AL.	
	Examiner JUSTIN LOFFREDO	**Art Unit** 3744	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *12/08/2010*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (see Note below).
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Marc E. Norman/
Primary Examiner, Art Unit 3744

Note: The applicant's arguments with respect to the pending claims have been fully considered but they are not persuasive. The applicant has presented arguments already set forth in the Remarks filed on July 26, 2010, which were fully addressed by the examiner in the Final Rejection filed on October 14, 2010. While the following remarks address the applicant's arguments filed on December 8, 2010, the applicant is encouraged to refer to the Response to Arguments section of the Final Rejection filed on October 14, 2010 for a more detailed explanation when applicable.

In response to the applicant's argument (Remarks p. 3) that the combination of Roslonski with Rode is improper because the cooling systems are different, Roslonski being directed to a portable device to cool a beverage while Rode and the claimed cooling apparatus employ cryogenic fluid, so that one skilled in the art would not think to employ any feature of Roslonski with the cooling equipment of Rode, the examiner disagrees. The Rode and Roslonski references are sufficiently analogous in that they are in the same field of endeavor, i.e. the field of utilizing a cooling medium to cool contained items. Further evidence that the references are in the same field of endeavor is not only that both references are classified in class 62, but the "Field of Search" for each reference is overlapping (compare the cover pages of the Rode and Roslonski references, which indicate that class 62, subclass 64 was searched for each reference). This overlap indicates that the references are sufficiently related, i.e. they deal with sufficiently related subject matter, so that the references are analogous.

In response to the applicant's argument (Remarks p. 3-4) that the modification of the intermediate space of Rode to include the porous buffer material of Roslonski is improper because Rode already provides an insulating material outside of the intermediate space, suggesting that no buffer material is to be provided in the intermediate space, the examiner disagrees. In the rejection of claim 21 the examiner decided that this modification would have been obvious because providing such a porous buffer material in the intermediate space of Rode not only would more effectively insulate and maintain a reduced temperature in the cooling space, but also that the buffer material would capture liquid refrigerant flowing through the intermediate space not vaporized in the cooling agent supply line, thereby preventing the potentially harmful formation of a cooling agent lake in the cooling equipment. The fact that the cooling equipment of Rode already employs an insulation material outside of the intermediate space does not teach away from providing additional insulation-like material elsewhere in the cooling equipment, especially when doing so would improve the ability of the device to maintain a reduced temperature for more efficient treatment of temperature sensitive items contained therein. The disclosure of Rode does not appear to criticize, discredit or discourage providing additional insulation-like material elsewhere in the cooling equipment, and therefore, Rode does not appear to teach away from doing so, as claimed by the applicant. Furthermore, additional insulation capability is not the only reason for modifying Rode to include buffer material in the intermediate space; the ability to capture liquid that could build up and harm the cooling equipment is another reason set forth in this office action.

In response to the applicant's argument (Remarks p. 4) that the combination of prior art does not provide a system to deal with the problem identified by the applicant, namely to prevent misting over of the protective bell, the examiner disagrees. The examiner has provided rationales as to why a person of ordinary skill in the art would have found it obvious to combine the prior art to meet the applicant's claimed invention, and it is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant, i.e. the combination does not have to solve the same problem identified by the applicant (MPEP 2144 IV).

In response to applicant's argument (Remarks p. 4) that the examiner's conclusion of obviousness with respect to the combination of Rode, Roslonski, and Arner is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Here, the examiner has provided a rationale for this combination of references that was not gleaned only from the applicant's disclosure. The rationale is found in the combination of references themselves, and the knowledge generally available to one of ordinary skilled art at the time of the invention, as provided in the rejection of claim 21.

In response to the applicant's argument (Remarks p. 4) that Arner fails to disclose a protective bell communicating the interior chamber with the cooling space as claimed, the examiner disagrees that this renders the combination improper or that the combination does not meet the claim. Referring to the rejection of amended claim 21 in the Final Rejection filed on October 14, 2010, the examiner provided the following: "Arner teaches a removable protective bell (10) having an interior chamber (Fig. 1), the bell (10) being at least partially transparent (col. 3, L 5-8), glove sleeves (21) on a front side thereof, and a cold gas outlet (25) located on a lower side of the bell (10) communicating with the interior chamber (see e.g. col. 3, L 5-58; Fig. 1). It would have been obvious...to replace the removable cover...disclosed by Rode to include a removable, protective, partially transparent bell with an interior chamber, glove sleeves, and a cold gas outlet communicating with the interior chamber as taught by Arner so that the bell is on and opened to the cooling space, the interior chamber of the bell communicating with the open, upper end of the cooling space, whereby the cold gas outlet also communicates with the cooling space through the open, upper end of the cooling space in order to protect temperature sensitive items to be cooled within the cooling space, and to allow for the gas that has already exchanged heat with the items to be released so that fresh cooling gas can be introduced into the cooling space, thereby promoting a more efficient cooling operation rather than ineffectively recirculating warmer gas. The transparent bell and glove sleeves together allow the items within the cooling space to more accurately be arranged or prepared in situ without permitting gas exchange while allowing a user to monitor the items through the transparent portion of the bell." The applicant's amendment to the claims to require that the interior chamber of the protective bell communicate with the open, upper end of the cooling space necessitated the new grounds of rejection provided here. The examiner has decided, however, that the combination of Rode, Roslonski, and Arner would have been obvious for the reasons provided in the claim rejections.

In response to the applicant's argument (Remarks p. 5) that the reliance on the Palma reference is improper because it is for a coffin and therefore totally unrelated, the examiner disagrees. Under this analysis, the cooling agent distributor taught by Palma solves the problem identified by the applicant (see applicant's disclosure, p. 4) of uniformly introducing cooling agent into the space to promote uniform temperature distribution since Palma discloses providing the hollow cooling agent distributor passages to circulate air over and around the entire interior space for more effective cooling (see e.g. col. 1, L 40-60), which provides a reason for combining the elements in the

manner claimed.